

PUBLISHED DAILY AND TRIWEEKLY BY EDGAR SNOWDEN. GAZETTE BUILDING, NO. 70 PRINCE STREET

TUESDAY, JANUARY 23.

The democrats in the New Jersey Legislature yesterday nominated John R. McPherson for U. S. Senator. As they have a majority of one it is more than probable that Mr. Me-Pherson will soon fill the seat now occupied by Mr. Frelinghuysen. A caucus of the demoeratic members of the West Virginia Legislature was held last night to nominate candidates for the U. S. Senate to fill vacancies caused by the death of Senator Caperton; also for a successor of Schator Davis, whose term expires next March. No nomination was made, the third ballot resulting as follows: For long term, Davis, 19; Faulkner, 26; scattering, 19, and for short term, Gov. Price, 21; H. S. Walker, 16; Frank Hereford, 18; scattering, 10. An elec tion for U.S. Senator from Georgia will be held to-day. The candidates are Senator Norwood, Ex-Gov. Smith and Mr. Benjamin Hill, The election in the Illinois Legislature was still in doubt this morning, the last ballot yesterday resulting as follows: Logan, 97; Anderson, 87; Haines, 3; Goudy, 1; Lawrence, 6; Trumbull, 1; Stephenson, 1; Marshall, 1; Parish, 1; with the probability that Logan would not get the three more he requires.

After more than a two month's delay President Grant, yesterday, replied to a resolution of inquiry by the House of Representatives concerning his employment of the United States army to seeme the success of radical elections in the South. The reply is contained in a lengthy communication, accompanied with numerous letters and documents, the purport of which is, though he attempts to make it appear otherwise, that, acting, not as the president of the country, but in the dual capacity of general of the army and "representative of the radical party," he sent troops to Virginia, South Carolina, Florida and Louisiana because he chose to do so, and that knowing inquiry would probably be made into such Caesarian operations, he pre-cryed some letters from anonymous or irresponsible parties as evidence of the necessity of his action.

Some of the radicals still profess to fear that the democrats will pay the Confederate war debt, and are every now and then introducing resolutions into Congress to amend the Constitution to prevent the payment of claims grow ing out of the late war, to persons who were disloyal. As the South is a part of the country, to the extent, at least, of paying taxes, and as Southern people already have to bear as heavy taxation as they can well stand, the radicals are giving themselves unnecessary trouble, and more especially as nearly all such claims as those they alladed to are made by the truly

The decision of the Supreme Court of Appeals of the State, in the case of Fairfax vs. the City Council of Alexandria, the full text of which appears elsewhere in to-day's Gazette will be read with interest, not only by lawyers, but by numerous persons in this section whose property was taken away from them by a judge whose decisions are thus, for the second time, characterized as "blots upon civil jurisprudence."

The Washington Chronicle, the suspension of which is mentioned elsewhere in to-day's Gazette, adds another to the long list of news papers that have been forced to succumb to the fighting influence of the business depression now pervading the whole country, and the effeet of which has been felt no more seriously than by the newspaper interest.

The Compromise.

In the United States Senate, yesterday, after Mr. Morton had made his speech against the compromise plan for settling the presidential difficulty, Messis, Sherman and Cameron spoke on the same side, and Messrs. Frelinghuysen, Edmunds and Bayard in favor of it. Mr. Morton dreads the passage of the bill as likely to insure the inauguration of Tilden, and Mr. Cameron says it will cortainly do so.

The Baltimore American says:

"A careful canvass of the Senate shows that the following Senators will vote for the bill: Alcorn, Anthony, Barnum, Bayard, Bogy, Cameron of Wiscosin, Chaffee, Christiancy, Cockerill, Conkling, Cooper, Dennis, Edmunds, Frelinghuysen, Goldwaithe, Gordon, Johnston, Jones of Florida, Kelly, Kernan, Key, Mc-Creery, McDonald, Maxey, Merrimon, Price, Randolph, Ransom, Robertson, Saulsbury, Stevenson, Thurman, Wallace, Whyte, Withers, Windom and Wright-37 in all, and sufficient to pass it.

"The following will vote against it : Morton, Sherman, Cameron, Clayton, Conover, Dorsey, Mitchell, Patterson, Sargent, Spencer, West

and Eaton. "Doubtful: Hamlin, Wadleigh, Morrill, Dawes, Booth, Boutwell, Burnside, Cragin, Hamilton of Texas, Howe, Jones of Nevada, Paddock, Sharon, Teller, Allison, Bruce, Ingalls, Harvey, Blaine, Hitchcock, and Me-Millan.

"The absentees are Logan, Oglesby, Davis of West Virginia, and Norwood. The indications are that the bill will pass the Senate to-day, and will be called up in the railways have received orders to hold them-

Thursday. The St. Louis Merchant's Exchange, the Pittsburg Chamber of Commerce, the Philadelphia Board of Trade, the Kansas City Board of Trade, the St. Paul Chamber of Com-

merce, and the business men of Richmond have all passed resolutions endorsing the plan and elected to Parliament from Waterford, Ireland, recommending its adoption.

The necessary amendments can easily be made, other words, instead of serving a copy of the it was unanimously held by this court that even but the provisions appear ample in that re-State Senator Nash, of South Carolina, a re-

publican elector and negro, testified before the House South Carolina Committee yesterday that a banker named Childs, in Charleston, of fered him \$10,000 in cash to cast his vote for fered him \$10,000 in cash to cast his vote for the House a vote was taken with the following formed that duty.

News of the Day.

Gangs of men employed by the Western Union Telegraph Company on Saturday commenced to destroy the wires of the Merchants' National Telegraph Company in the oil regions of Pennsylvania, which had been operated by the former company under a lease that is about to expire, and which the Atlantic and Pacific Telegraph Company will hereafter control. An injunction was obtained at night from Judge Ewing by the Atlantic and Pacific Company which was served on all the officers and men of the Western Union who could be found. In the meantime all the wires between Franklin and Oil City and in many other localities were destroyed.

Marshal Wallace, who is now in Washington, yesterday reported to the Commissioner of Internal Revenue that in the late raid upon the illicit distilleries in South Carolina one of the killed was a United States Deputy Marshal, and that four of them have been killed in that State within the last five years, one disabled for life and the dwelling of another burned. He added that it was dangerous for the officers to attempt to enforce the laws, and that matters tual or constructive, depending upon the nature were growing worse constantly.

A feud which has existed between the firemen and sailors of the steamship Montana, at New York, ended Sunday morning in a free fight, which was renewed in the afternoon, in which John Kelly was stabbed over the eye, and others were severely damaged. Officers of against which the proceeding is instituted, and the vessel had great difficulty in quelling the

Advices from New Orleans yesterday state that the Louisiana republican House has scated five members subject to contest. Ex-Governor Kellogg, who claims to have been elected Inited States Senator, lest New Orleans for Washington last night.

Tha first of the Wall street prayer meetings for the conversion of bankers and brokers was held yesterday afternoon at Underwriters' Hall, New York. Services were conducted according to the Episcopal ritual. The meeting's will coninue every afternoon.

The U. S. Marshal of the District of Columbia yesterday, in accordance with a judgment in favor of Alexander Shepherd for rent, seized the Daily Chronicle establishment and forced all of its employees to leave the building, thus preventing them from getting out a paper.

A Tallahassee dispatch says the House passed, under a suspension of the rules, an act to declare and establish the appointment by the State of Florida of electors for President and Vice

The booksellers of Philadelphia have appointed a committee to go to Washington and present a protest to the Ways and Means Committee against the pending bill to abolish import duty on books, &c.

A bill was introduced in Congress yesterday to incorporate the Palais Royal Hotel Company, with a capital of \$2,000,000, to build a hotel in Washington city.

The steamer has Lotus sailed from New Haven, Conn., for Constantinople, with a cargo of arms and ammunition for the Turkish Government valued at \$1,760,000.

The Alabama and Chattanooga Railroad was sold yesterday and bought by Judge Graidny for the holders of receivers' certificates and other claimants on the fund.

W. E. Rhodes, photographer, was murdered in his own room, at Quincy, Ill., last Sunday night, by robbers.

Mr. D. Wilson Bragg a well known citizen of Petersburg died suddenly there yesterday even-

The American ship George Green has been lost, with all on board.

Letter from Richmond.

[Correspondence of the Alexandria Gazette.] RICHMOND, VA., Jan. 22, 1877.-The following bills have become laws :

An act to amend section 2, chapter 4, of an act to provide a charter for the city of Petersburg, approved March 11, 1875; an act to amend the code fixing the pay of the Adjutant General, and to repeal section 28 of chapter 23 of the Code; an act to authorize the supervisors of Floyd county to levy a tax for building school houses; an act to incorporate the Staffordsville Bridge and Turnpike Company in Giles county, Va., an act to renovate and repair the statue of Clay in the Capitol grounds; an act for the relief of the heirs of Harvey West, deceased, of Rockingham county; an net to abate the rigors of the fence law on the ine of two counties-one only of which has

adopted its provisions. In the House of Delegates, to day, Col. Ball, of Alexandria, republican, offered joint resolutions approving the electoral bill now before Congress. The resolutions were referred. This afternoon there was a caucus of conservative legislators on the same subject, Hon. A. II. H. Stuart proposing a resolution in favor of the electoral bill in the interests of peace and reconciliation. Major John W. Daniel, of Lynchburg, opposed the scheme of the bill strongly, and charged the Northern democracy with cowardice in the face of the enemy. Ex Gov. Smith opposed present action. So much difference of sentiment was developed that the whole matter was laid on the table and the

caucus adjourned. A meeting of the leading business and professional men of this city was held this evening on a call issued to day, to give an expression of opinion upon the bill reported in Congress for counting the electoral vote. Gen. Joseph R. Anderson presided. Resolutions were adopted approving and endorsing the proposed plan. and urging Gov. Walker, the representative of this district, and the other representatives and the two Senators from Virginia, to give the

bill their active and cordial support. In the Senate, to-day, Mr. Lee, from the Alexandria district, addressed the Senate upon a bill for the disbanding of the Richmond Light Infantry Blues and incorporating the Blue's

Association.

The Grand Duke Alexis visited the Gosport navy yard yesterday, and was received by Commodore Creighton, the commandant. Last night he visited the opera house in Norfolk and | 7 of chapter 170, page 707 of the same code, witnessed Adelaide Neilson in Juliet. It is said that "it shall be sufficient to serve any process he wishes to go to Washington, but that the admiral of the fleet refuses to grant him a furlough. It is also said that in consequence of some of his former doings when in this country he is under

Foreign News.

The plenipotentiaries of the European Powers lately in attendance on the Constantinople Conference yesterday paid their farewell visits to the Turkish Ministers and presented their Charges d'Affaires. According to the London said, that is the Marshal ought to have served that subject. The order in effect denied the Times, notwithstanding the departure of the a copy of the warrant of the District Attorney respondent a hearing. It is alleged that he was ambassadors no apprehensions seem to be felt on the mayor of the city of Alexandria, or in in the position of an alien enemy, and hence of an immediate collision. Servia wants to his absence on the president of the Council of could have no locus standi in that forum. If make peace directly with the Porte, and, it is said city, or in his absence on the Recorder or assailed there, he could defend there. said, has gone so far as to ask for the midia- any Alderman of said city. The Marshal knew, liability and the right are inseparable, a differtion of England. Officers of all the Russian or might easily have known, this method of ent result would be a blot upon our jurispru-House for debate to-morrow and be passed on selves in readiness for a large increase of mili- to have been informed of it, if necessary, by doubt on the subject. It would be contrary to tary transportation.

It is stated from Paris that the good understanding between the Governments of France and Germany has not been disturbed.

Mr. Delahunty, home ruler, was yesterday

U. S. Senator. .

Tilden and \$40,000 additional after he had per-formed that duty. result: John R. MacPherson 30 votes; Fred. T. Fredinghuysen 30 votes.

Important Decision.

The following is the full text of the decision, heretofore mentioned in the Gazette, of the Supreme Court of the State in the case of Fairfax vs. the City Council of Alexandria. It was rendered by Judge Moneure:

If the District Court had no jurisdiction to render the decree of confiscation relied on as a defence by the defendant in this case, then it is admitted by the counsel on both sides, and is clearly shown by authority, that the said decree is void, and must be so regarded, even in a collateral proceeding such as this is. It is also admitted by the counsel on both sides, and is clearly shown by authority, that as the procoeding in this case is in rem., to give the court jurisdiction of the case, the res must have been brought, by seizure, within the power and control of the court. Was it so

"By the seizure of a thing," said the Su-preme Court, in Pelham vs. Rose, 9 Wallace 100, "is meant the taking of a thing into pessession, the manner of which, and whether acof the thing seized, as applied to subjects capable of manual delivery, the term means caption, the physical taking into custody." the case at bar," further said the court, "a visible thing, capable of physical possession, is the subject of the libel. It is the promissory note of Pelham which constitutes the res, not a credit or debt, which the note is supposed by the defendant's counsel to represent. Whether by any proceeding under the act of July, 1862, the indebtedness of a maker or a negotiable promissory note, before its maturity, could be reached, without the possession of the note itself, is not a question presented for our consideration. It is sufficient that the object of the present libel is to reach the note itself. This appears at every stage of the proceedings, &c. "To effect its seizure, as required by the act, it was therefore necessary for the marshal to take the note into his actual custody and

control." See also Pelnam vs. Way 15, That a credit was liable to "seizure" within the meaning of the act of July 17, 1862, clearly appears, not only from the express language of the act itself, but also from various adjudications upon it by the Supreme Court of the United States. First, as to the express language of the act. The fifth section enacted "that to ensure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits and effects of the persons herein after named," &c., and the 6th section makes it the duty of the President "to seize and use, as aforesaid, all the estate, property, moneys, stocks and credits of persons within any State or Territory," &c. Secondly, as to the decisions of the Supreme Court upon the subject; they are Miller vs. United States, 11 Wall, 286; Brown vs. Kennedy, 15 Id. 591. But as a credit is incapable of being actually seized, it must be constructively seized, if seized at all. How may

it be constructively seized? The act of Congress does not prescribe the mode, as it might have done, and it it had done so, no doubt a seizure in that mode would all proceedings under them, and authorized Among these instructions the following were with reasonable certainty the property to be determined between March 10th, 1864, and seized and the owner whose right is sought to May 4th, 1864, were by order of the said Unit- to knock at the door of the court after it was be confiscated. "When the marshal has seized ed States District Court at Alexandria stricken any property under such authority he will, with out any nunecessary delay, make a true return lando Fairfax was within the confederate lines thereof in writing to the district attorney, and a 'rebel.' 'Where the State law directs the method of seizure it shall be conformed to as nearly as may be expsistent with the objects of the acts of Congress. If the thing to be seized be personal of Alexandria, was rendered by the said Disproperty, it ought to be actually seized and trict Court on the 4th day of May, 1864, after safely kept; if real estate the marshal ought to the trial of the other three confiscation cases seize all the right, title interest and estate of against the same defendant referred to in the the accused party, giving notice in writing of the said agreed statement of facts, in which cases seizure to the tenants in possession, if any; if his other estate, or some of it, was confiseated, stock or other intangible property, the marshal and was in form a judgment by default in the

court to determine the sufficiency of the seizure.' The subject of the proceedings in this cause, viewing it most favorably for the defendant, was "a credit." The method of seizure of such a subject as directed by the State law, is that prescribed by the law in regard to attahement, and where the debtor is a corporation, as in this case, notice of the seizure ought to be given to the person on whom, by law, process against the the United States;" and then followed an corporation is required to be served. By the award of a writ of venditioni expones for a sale State law, Code of 1860, chap. 151, sec. 7, p. 647, it is enacted "that an attachment" shall be sufficiently levied in every case by a in said case and was refused permission to do service of a copy of such attachment on such | so, or refrained from doing so vain a thing by persons as may be designated by the plaintiff the rule of the court which had just been enin writing, or be known to the officer, to forced against him in three other confiscation be in possession of effects of, or to be indebted to "the defendant, and as to real have so appeared and male his defence in the just, has thus received the emphatic sanction of estate by such estate being mentioned and described by endorsement on such attachment.' See also section 12 and 13 of the same chapter, Id page 648. In regard to the execution of process on a corporation it is enacted in section | the file, on the ground that he was a "rebel" 7 of chapter 170, page 707 of the same code, rector, president, or other chief officer, or in Supreme Court of the United States. It was which he resides, or in which is the principal office of the corporation, against or to which the process or notice is, if it be a city or town on the president of the council or board of trustees, or in his absence on the recorder or committed a serious error in ordering any Alderman or trustee." The method of the claim and answer of the respondent to be seizure in this case ought, therefore, to have been that prescribed by the State law as aforeseizure prescribed by the State law, and ought | dence and civilization. We cannot hesitate or

plainly as he can in his return and leave the

the District Attorney. Instead of pursuing that course the Marshal | the right administration of justice." to R. Johnson, esq., Auditor of the corpora- it in conformity to law.

in fact have been as apt to be communicated to | dered absolutely void by the act of the court in the plaintiff as notice to the Mayor. But it is refusing to permit McVeigh to appear and be enough to say that the law has made the heard. The authorities on this point are over-Mayer, &c., and not the Auditor of the corpo- whelming, and the decisions of all the tribunals ration, the agent thereof to receive such a notice and service of notice upon him has no prudence prevails are all in one way. It is at the more effect in binding the corporation than service on any stranger would have. In Miller vs. United States 11, Wallace 268, the seizure was of stocks in railroad companies in Michigan, was made by giving notice of the seizure to the president of one and vice president of the other of said companies, and was held to be a good seizure, having been recognized to be good by the court in which the preceeding was had, and the judgment of confiscation was pronounced. But the law of Michigan prescribed no mode of seizure of the stock of a corporation and the court had prescribed none in that case. The court therefore held that the mode of seizure pursued in that case was cited. "Such is the settled law, where the dereasonable and sufficient. But even in that case the seizure was considered insufficient by the three dissenting judges. The act of Congress in question is extremely penal in its effect, and ought, therefore, to be strictly construed, and a rigid compliance with all its requirements ought to be exacted. The means of defence which it afforded to those who were affeeted by it were exceedingly limited, and the mode of giving notice to them was necessarily very imperfect. It is all important, therefore, that they should have the full benefit of any defect in the exparte proceedings had against them under that act. The objection goes to the want of jurisdiction in the court to pronounce the judgment complained of, and if the objection be a good one it makes the judgment null and void, even in a collateral proceeding. While presumptions are made in favor of the judgment of a court of competent jurisdiction they are not made in favor of jurisdiction when that is the question in controversy, and especially is that the case when court whose jurisdiction is in controversy is one of limited jurisdiction, such as is the District and Circuit Court of the United States. It cannot be presumed, therefore, in favor of the jurisdiction of the court in this case that the Marshal seiz ed the property described in the warrant in the mode required by law, and especially can it not | defendant's right to appear and defend himself be so presumed in the face of his return, which shows that the only mode of seizure was by giving notice to R. Johnson, Auditor of the corporation of Alexandria, which, as we have seen, was not a legal mode of seizure. Then he res in this case was not brought by seizure within the power and control of the court, which rendered the decree of confiscation in | is the foundation of the judgment of confiscation this case, which deerce therefore is null and void, and the judgment of the court below must, on that ground, be reversed and annulled. But the decree of the District Court is void for another reason, and that is the plaintiff in error was deprived, by a rule of the said court, of his legal and constitutional right to appear and defend himself in said court against the charge on which the proceeding to confiseate his property as aforesaid was founded. According to the agreed statement of facts in the case "between March 14th and April 11th, 1864, an attorney at law appeared before John C. Underwood, judge of the District Court of the United States of the district of Virginia at Alexandria, as counsel, and endeavored to prohave been sufficient, and perhaps the only cure from him a reversal of the decree of conhave been sufficient, and perhaps the only cure from him a reversal of the decree of con-seizure that would have been sufficient. But fiscation entered in favor of the United States place and of the substance of the libel to be givthe act of Congress, as we have seen, makes it against Dr. Orlando Fairfax's (the plaintiff in on by publication thereof in a newspaper pub the duty of the President of the United States this cause) house and lot, situated on Cameron lished in the city of Alexandria, and also by to seize, or cause the seizure of all the estate, property, moneys, stocks, credits, &c., as aforesaid. Thus, as it seems, making it his especial attorney, from the bench, that he would allow duty to prescribe rules in regard to seizure, no appearance for any 'rebel' or 'traitor;' that these directions appear by the record to have where doubt or difficulty might arise on the this was the rule of his court as before that been complied with. What a mockery in the subject. Accordingly it is stated in 11 Wall, publicly announced, and that he had in face of all these proceedings, designed to notify pages 273 and 274, that, "in order to carry every case ordered the appearance of countries and to afford him and the afford him afford him and the afford him and the afford him and the afford him and the afford him afford him and the afford him out these acts of August 6, 1861, and July 17, sel for, and the answer of 'rebels' to be and to afford him an opportunity of appearing 1862, the President charged the Attorney Gen stricken from the files. The records of three his case of the rule of court to "allow no appeareral with the superintendence and direction of confiscation cases tried in the United States ance for any rebel or traitor," thus assuming his District Court for the district of Virginia be- guilt of the crime charged : gainst him, which him to give to the district attorneys and mar fore the said John C. Underwood as judge, shals such instructions and directions as he between March 10th, 1864, and May 4th, 1864, might find needful and convenient, touching all | in which the United States was plaintiff and seizures, proceedings and condemnations under | Dr. Orlando Fairfax (the plaintiff in this them. Accordingly on the 8th of January, 1863, | cause) was defendant, show that in each case the Atterney Generalissued general instructions the above rule and practice of the court, as and his appearance and defence in those cases on the subject to district attorneys and marshals. | proven by said attorney, that is, to allow no had been stricken from the file under the operaappearance for any 'rebel' or 'traiter,' was cargiven with regard to the seizure of property: All ried out against Dr. Orlando Fairfax, the deseizures will be made by the marshal of the lendant in those causes and the plaintiff in proper district, under written authority to be this, and that the appearance of his attorney given him by the district attorney, specifying and his answers in those three causes tried and

and the money due to him thereon by the city ought (if there be no specific method prescribed following words: "The papers in this cause by the State law) to describe the property as having been heretofore returned, the usual proclamation having been made, the default of all persons being duly entered, and due deliberation being had on the pleadings, it is thereupon, on motion of L. H. Chandler, attorney for the United States, ordered, adjudged, sentenced and decreed by the court that the personal property mentioned and described in the libel in this cause be, and the same accordingly is, confiscated and condemned as forfeited to of the said property. Whether the defendant Fairfax offered to appear and make his defence cases, does not appear. No doubt he would said case but for the said rule. If he had so appeared and made his defence, and afterwards, before the hearing of the case, the appearance and defence had been stricken from or a "traitor," there can be no doubt but that the judgment afterwards rendered in the case, court in "McVeigh vs. United States," 11 Wallace 259, in which Mr. Justice Swayne, delivering the opinion of the court, said :-"In our judgment the District Court stricken from the files as we are unanimous in this conclusion, our opinion will be confined to judgment was suspended for the present. the first principles of the social compact and of pursued the course named in his return, which | ingly the judgment of the District Court in that

from the files on the ground that said Dr. Or-

The judgment for the confiscation of the

stock or bonds held by Dr. Orlando Fairfax,

warrant on the Mayor, or in his absence on the in a collateral proceeding, between other parnext chief officer of the city, who might have ties, the judgment of the District Court refer-

debt of the corporation, and notice to him may sale was a nullity-void in toto. It was renof every country, where an enlightened jurisvery foundation of justice, that every person who is to be affected by an adjudication, should have an opportunity of being heard in defence, both in repelling the allegations of fact and up on the matter of law, and no sentence of any court is entitled to the least respect, in any other court, or elsewhere, when it has been pronounced exparte and without opportunity of defence." A tribunal which decides without hearing the defendant, or giving him an opportunity to be heard, cannot claim for its decrees the weight of a judicial sentence. See Smith's Leading Cases, vol. 1, part 2, ed. 1872, pp. 1118; 19 and 20, and the numerous cases there fendant's appearance and answer are stricken from the files, and the court then goes on to decide the case in the absence of the defendant, and without being willing to hear him. In that case the judgment is not only void, but may be reversed on error by an appellate court. But what difference can it make, that the defendant's appearance and answer were first received and then stricken from the files, if he was not permitted to appear? It may make this difference to be sure, that in the latter case the refusal of the court to permit him to appear, not being matter of record in the ease, he can obtain no relief by writ of error to an appellate court. But that difference strengthens "the reason for giving him relief in a collateral proceeding, which is his only remedy, surely he is entitled to some remedy for the grievous wrong which is done him by not permitting him to appear and defend himself against a criminal charge which is made against him. It is not his fault that he has no remedy by writ of error. He had no power to appear against the rule of the court to the contrary. He could not, therefore, make the re-fusal of the court a matter of record in the case, The judgment is, therefore, absolutely null and void, and must be so regarded in a collateral proceeding. The defendant is in effect not a party to the proceeding, and a judgment cannot be conclusive against a person not a party. The against the criminal charge made against him in the libel is manifest from the nature of the act of Congress and all the proceedings against him in the confiscation case. The act was not made for the confiscation of property merely because it was enemy's property, but because the owner of it had been guilty of certain criminal acts de-fined in the law. His guilt of these criminal acts against him. And his right to defend himself against the charge of these acts is just as clear as would be his right to defend himself against a charge of murder or any crime, and almost every step in the proceedings recognized the right of the defendant to appear and make his defence. In the conclusion of the libel prayer is made that process of monition may issue against the owner of the property therein described and against all persons interested or claiming an interest therein, warning them at some early day to be therein named, to appear and answer this libel of information; and the owner of said property being absent and non resident, prayer is further made for order of publication in the usual form, &c. And to the same effect are the subsequent proceedings in the case—as for instance, the order of court awarding the monition, appointing a time and place for the trial o door twice weekly until the day of trial. All of

charge he was summoned to answer. That he was prevented by this rule thus announced from appearing and making his defonce is manifest. He had appeared and made his defence in several other confiscation cases against him tried just before the trial of this one, tion of the rule which was then announced to his counsel. He had precisely the same reasons for appearing and making his defence in this case as in those cases; and he would no doubt certainly have done so but for the rule which barred the court against him. It was certainly not necessary for him to do so vain a thing as barred, and when he knew that it would not be opened to him. It can hardly be necessary to cite authority in support of views which seem to be self-evident. The cases of Dean vs Nelson, 10 Wall, 158; Lazere vs. Rochreau, 17 Id., 437, and Tacey vs. Irwin, 18 Id., 549, strongly sustain them; but it is unnecessary to do more

than refer to them. Upon the whole, the court is of opinion that the judgment of the circuit court is erroneous and ought to be reversed and annulled; that the law upon the facts stated in the case agreed is

for the plaintiff, and that judgment ought to be rendered accordingly. Since writing the foregoing opinion we have received and read a copy of the opinion of the Supreme Court of the United States in the case of Windsor vs. McVeigh, recently decided by that court and not yet reported. We entirely concur in that opinion, and think the principles established by is fully sustain the views expresend by us in the latter branch of the foregoing opinion. That decision entirely accords with the decision of this court in Underwood vs. McVeigh, 23 Gratt, 494-the facts of the two cases being precisely alika. We have endeavored to show in the foregoing opinion that there is at least as much reason in this case as there was in that, for considering the judgment of confiscation void on the ground that it was "a entence of a court pronounced against a party without hearing him or giving him an opportu-nity to be heard." Such a sentence is not a judicial determination of his rights, and is not entitled to respect in any other tribunal, according to the opinion of the Supreme Court in the case above cited. We deem it unnecessary to say anything further than to express our gratifica-tion that a principle, which seems to us to be so

that high tribunal.

The Thorburn Case Petersburg, VA., Jan. 23.-The trial of Samuel II. Thorburn, charged with the larceny of \$16,700 from the Bank of Petersburg, and with making a false entry in the books of against or notice to a corporation, on its mayor, as by default, would have been reversed by the the Citizens' Bank in favor of Richard Bagby, whereby said bank was defrauded out of \$10,his absence from the county or corporation in so expressly and unanimously decided by that | 000, took place yesterday. The jury returned verdicts of guilty in both cases, and fixed his imprisonment in the penitentiary at five years, two for the larceny and three years for the false entry-the shortest period allowed by the law. They also presented with their verdict a unanimously signed recommendation for prompt | Surplus fund. executive elemency, and on motion of counsel

GOV. HENDRICKS ON THE PLAN. - GOVERNOR Hendricks says : "I am gratified that so fair a bill has been reported. It may not satisfy those who demand success in advance, but I think it will be accepted by the country. Certainly the commissioners may make a proper and righteous decision under it. It will allow such latitude on investigation and judgment as will compel them to decide the right. If passed in its present shape, the bill will not allow is in these words: "I certify that I have seized case was reversed and the cause remanded to the commission to consider all matter of evithe within decribed property and given notice | the Circuit Court, with directions to proceed in | dence as fully as the two Houses of Congress could do in considering the question directly.

Upon the constitutionality of the proposed been present as aforesaid, he gave notice of it red to in McVeigh vs. United States supra, measure the Governor says the power of Con(whether orally or in writing is not stated) to having been rendered in the absence of Mcgress to count the vote and to decide upon all R. Johnson, esq., Anditor of the corporation | Veigh, was a nullity, and the deed of the Mar- the questions that arise in the progress of the of Alexandria."

What are the duties of this Auditor we know not. They may be important in regard to the court, said: The sentence of condemnation and sign and control by agreement of both Houses.

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THE NEW YORK HERALD .- A New York dispatch to the Cincinnati Gazette, says :--

The departure of Bennett for Europe is, it is said, intended to be a starting point for reformation. It is not expected that he will return in a long time-perhaps never. He leaves America as Byron left England, seeking another home. It is now well understood that during the interval between the knock down and the departure Bennett was concealed in his own mansion in the Fifth avenue. The house being connected with the Herald establishment by elegraph, he kept up anincessant communication with his down town office. It is under stood that the Herald is placed in the hands of the chief editors, who are to pay an annual rent. not less than \$75,000 a year. This will leave them a surplus of nearly as much more. The Bennett builing in Nassau street will be farm out in a similar manner. This will give a wide margin for its agents, who ought to clear \$5,000 a year by its rental.

MR. FERRY WANTS TO COUNT IN HAYES .-The Washington correspondent of the New York Evening Telegram says:

"Friends of President Ferry, of the Senate. say that he has fully determined to assume the power of counting 185 votes for Hayes if he has the opportunity, and that he is anxious rather than otherwise that the opportunity may be afforded to him. He has been reading up Congressional history, and thinks he has discovered some evidence which warrants him in claiming this power."

COMMERCIAL.

ALEXANDRIA MARKET, January 23, 1877 -The market to-day is active and prices hold firm. Offerings of 1425 bushels of Wheat, with sales at 155 and 160 for white, and 150 ale to a lo quality, for red. Corn is in good receipt, witsales at 55 for old, and 52 and 53 for new mixed No Rye or Oats reported.

[By Telegraph.]

NEW YORK, Jan. 23.-Stocks active and strong. Money 4 Gold 1061. Governmentdull but strong. Flour quiet and unchanged Wheat dull and unchanged Corn quiet and

BALTIMORE, Jan'y. 23. - Virginia 6s, deferred 71; Virginias, consolidated, 67; do. 21 series 7. Cotton steady and firm; middling 13. Flour steady, firm, quiet and unchanged. Wheat du and easier; No. 2 Western winter red 14 al4; No. 2 Chicago spring 140a142; Penna red 150 155; Maryland red prime 153a100; do. amber 162; do. white 150a160. Corn—Southern quiet and firm; Western quiet and lower, but closed steady at a decline; Southern white 55:55; do vellow 57:a59; Western mixed new spot 50; Fellow vellow 57a59; Western mixed new spot 50; Feb 592; Mar 602; April 61); May 62;a62). Oats steady and firm; Southern prime 49a41; Western white 41a43. By e firm with a fair demand at 75. Clover Seed quiet at 144844 50. Hay steady and unchanged. Code dull and unchanged. Sugar quiet at 115. Whiskey duit and lower at \$1.11.

DIED.

At Mount Crawford, Va., on Friday, January 19, 1877, at 10 o'clock p. m., after a protracte illness of consumption, HOLMES BOY! BARE, in the 35th year of his age. December 27, 1876, Dr. THOS. R. DITTY, c Westmoreland co., Vs.

REPORT OF THE CONDITION

-of the-FIRST NATIONAL BANK

AT ALEXANDRIA.

In the State of Virginia, at the close of busin on Saturday, the 20th day of January, 187 RESOURCES.

Overdrafts..... U. S. bonds to secure circulation 100 (65) 15 on haud par value...... int.(18) a Other stocks, bonds and mortgage: Due from approved reserve agent Due from other National Banks...... Due from State Banks and Banker- ... Real estate, furniture and fixtures..... 21,550 Current expenses and taxes paid Premiums paid..... Silver coin..... Redemption fund with U. S. Treas r. Due from U. S. Treasurer.....

Capital stock paid in..... Other undivided profits..... Nat. Bank notes outstanding...... Due to State Banks and Banker

State of Virginia, } to wit:
County of Alexandria. }
I, CHARLES R. HOOFF, Cashier of the First National Bank of Alexandria, Virginia, d solemnly swear that the above statement is tru to the best of my knowledge and belief. CHAS. R. HOOFF, Ca hier Subscribed and sworn to before me this 2

day of January, 1877. K. KEMPER, Notary Public Correct-attest:

S. F. BEACH, S. F. GREGORY. JOSEPH BRODERS, J

REPORT OF THE CONDITION

-OF THE-CITIZENS' NAT'L. BANK,

in the State of Virginia, at the close of January 20, 1877.

Loans and discounts...... \$131.673 Overdrafts..... U. S. Bonds to secure circulation [(*)(**)] Other stocks, bonds and mortgages... Due from approved reserve agts Due from other National Banks Due from State banks and banker. Real estate, furniture and fixtures Current expenses and taxes paid Premiums paid..... Checks and other cash items...... Bills of other Banks..... Fractional currency, includ' a nicke Specie (including gold Treas'y, notes

Capital stock paid in..... Other undivided profits..... Nat'l. Bank notes outstanding..... Dividends unpaid..... Individual Deposits subject to check. Demand certificates of deposit..... Due to other National Banks Due to State Banks and Bankers

urer (5 per cent of circulation)

State of Virginia, County of Alexandria, I, William H. Lambert, Cashier of the transfer National Bank, of Alexandria, descending swear that the above statement is true

best of my knowledge and behef.

W.M. H. LAMBERRT, Codar

Subscribed and sworn to before me, that a day of January, 1877. K. KEMPER, Notary Falso

Correct-Attest: JNo. B. SMOOF, John B. Daingebyiehd, P. B. Hooe,

TURKISH PRUNES, Peole I and Unpeoled Peaches, Dried Apples not., Cherries, Barins, Figs, Lemons, &c , for sala by

J. C. & F. MILBURN